Memorandum from the Norwegian delegation on fishery limits (4 May 1971)

Caption: On 4 May 1971, the Norwegian delegation sends the European Communities a memorandum on the question of access to fishing areas within Norway's territorial waters.

Source: Archives historiques de l'Union européenne, Florence, Villa Il Poggiolo. Dépôts, DEP. Franco Maria Malfatti, FMM. Élargissement. Adhésion de la Norvège, 04/11/1970-20/01/1972, FMM 45.

URL:
http://www.cvce.eu/obj/memorandum_from_the_norwegian_delegation_on_fishery_limits_4_may_1971-en-41593741-c1ac-40e7-abf7-b584c998a91b.html

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NORWEGIAN DELEGATION CONFIDENTIAL

M E M O R A N D U M

EC - Access to fishing inside the fishery limits.

1. Article 2 of Council Regulation No. 2141/70/EEC concerning the introduction of a common structural policy in the fisheries sector, stipulates that the Member States shall accord all fishing vessels carrying the flag of a Member State, and which are registered within the Community area, equal access to fishing grounds and equal fishing rights in waters inside the fishery limit. Detailed rules regarding the implementation of this principle have not been given. The rules regarding fishing activities which have been, or which will be enacted by the respective coastal states, will apply also to fishermen from other member countries on the condition that these rules do not contain elements of a discriminating nature. The coastal state thus retains the jurisdiction over waters inside the fishery limits.

2. At the inaugural meeting in Luxembourg on 30th June 1970, The Norwegian Foreign Minister pointed out that the question regarding access to fishing inside the fishery limits is of vital importance to Norway. The Foreign Minister maintained that it is necessary to preserve coastal fishing in order to secure the economic basis of the coastal population and thereby a continued settlement in large parts of the country.

The question of fishing inside the fishery limits was taken up again at the following Ministerial Meeting between Norway and the Community which took place on the 22 September 1970. Those problems which arise for Norway in connection with

the Council Resolution concerning the introduction of a common structural policy, were further elaborated on that occasion. Norway, on her part, maintained that in addition to the threat to the population settlements which the Resolution is felt to produce, an extension of fishing rights inside the fishery limits could have additional detrimental effects on the efforts to preserve existing stocks of fish which are already being overfished. Furthermore, an extension of coastal fishing rights would aggravate already existing problems which arise when active fishing gear such as trawls, and passive gear, such as nets and lines, are employed in the same waters. Norway, on her part, found it necessary to request that the fisheries policy to be applied within an enlarged European Community should be reconsidered and importance be attached to the structural and natural variations which exist within an area stretching from the Mediterranean to the Barents Sea. The Community, on its part, gave an assurance, that it was prepared to recognise, in due course, the attention which it would be appropriate to ascribe to the problems faced by Norway in the fisheries sector.

At the Ministerial meeting on 30 March this year, the Norwegian Foreign Minister referred to this assurance and requested that discussions now be started between Norway and the Community concerning the fisheries policy, and that at the next meeting of Deputies the procedures to be adopted for such discussions should be considered.

As a contribution to the preparation for these discussions the Norwegian Delegation will, in this memorandum present the Norwegian views regarding the question of fishing activities inside the fishery limits in an enlarged Community. In a later memorandum certain questions willl be raised in the context of Council Regulation No. 2142/70/EEC concerning the introduction of a common market organization for fish products.

3. As will appear from the above, it has been pointed out previously that the adopted Regulation raises serious problems for Norway as far as fishing inside the fishery limits is concerned. The present memorandum will therefore confine itself to a recapitulation of the principal Norwegian viewpoints on this question.

Fishing and fish processing constitute the economic basis for the population settled along the extensive coastal areas of Norway. This industry is based on the exploitation of rich resources of fish in the waters adjacent to our coast. For these reasons, and due to the short distances from the fishing harbours to the fishing banks, the Norwegian fisheries have developed into an industry with a particular structure. Fishing is mostly carried out by means of small fishing vessels and the hauls are delivered for processing to large number of processing plants which are distributed along the whole coast and whose products are sold on the international markets. The structure of this industry in Norway differs from that generally found in the fishing industry within the present Community. The structure within the Community is characterized by the fact that the greater part of the catches are made by fairly large, or large, long range vessels fishing in distant ocean waters, and delivered at central ports near the large consumer areas in Europe. The structure in Norway, which is adapted to existing natural conditions, is not necessarily less efficient, but it should be acknowledged that such structural disparities create conflicting interests. For countries with a marked coastal type of fishing industry it is thus of vital importance that the waters near the coast are reserved for fishermen resident in the coastal state.

It is also of vital importance that those stocks of fish which constitute the basis for the industry are not too heavily exploited. It will be known, that serious problems have recently arisen in connection with the excessive exploitation of certain species of fish. The intensification of fishing in the fishing areas which will be a consequence of the Community's regulation, would aggrevate this problem. The problems which arise when fishing is carried out with active and passive fishing gear in the same fishing areas, would also be aggrevated. Although the coastal state enjoys jurisdictional rights over its fishing territory and can thus regulate fishing on a national basis, a regulation such as that adopted by the Community would raise serious problems with regard to supervision.

The Community Regulation concerning access to fishing inside the fishery limits would have highly damaging consequences for Norway. It would have a direct and serious effect on settlement patterns in the coastal areas because there usually are no alternative possibilities of livelihood. It would be contrary to vital Norwegian interests to introduce arrangements which would have such effects.

4. In its consideration with regard to access to fishing inside the fishery limits in an enlarged Community, the Norwegian Government has attempted to find a solution which is satisfactory for Norway and consistant with Community principles. It is in itself desirable to reach such a joint solution in an economic community, so that a situation can be avoided whereby an exception to the general rule has to be applied to that country among the member states which has the greatest interests within the fisheries sector.

In the opinion of the Norwegian Government an arrangement concerning fishing inside the fishery limit should be based on the rules in the Rome Treaty concerning right of establishment. The guiding principle must then be that only those who are established in the coastal state shall be permitted to engage in fishing inside that country's fishery limit.

Fishing within a country's fishing territory constitutes an exploitation of a natural resource. In order to be able to exploit such resources the Community has in other sectors always required prior establishment in the country concerned in conformity with the Treaty's rules of establishment and with those directives which may have been adopted for the sector concerned.

It seems natural and consistent also to follow the same principle with regard to access to fishing inside the fishery limits, particularly since a divergent solution would be contrary to the vital interests of an applicant country.

5. It is a presumption that those rules of establishment which in case should be made applicable for fishing inside the fishery limits, should accord the coastal state, within the framework of its national legislation concerning governmental concessions, the right to require residence, and, as far as companies are concerned, that they must be registered in the coastal state. It should also be permitted to stipulate as a requirement that at least 50% of the capital assets be owned by persons resident in the coastal state and that the majority of the members of the board be residents there. The fishing vessels must be registered in the coastal state and carry its flag.

The Norwegian Delegation is prepared to discuss in more detail the formulation of those rules which would apply to the right of establishment in connection with fishing inside the fishery limits.

6. In connection with the consideration of this question other solutions have been considered, including tentative suggestions which have occasionally been put forward in European fishery circles.

The Norwegian Government has come to the conclusion that Norway's problems cannot be satisfactorily solved by solutions such as a Community arrangement for one part of the coast while exempting another part of the coast, or by introducing one arrangement for one part of the fishing territory and another arrangement for another part of the fishing territory. If a satisfactory solution cannot be arrived at on the basis of the rules on right of establishment, the only alternative would, in the opinion of the Norwegian authorities, be an arrangement whereby all member countries are permitted to reserve the territory within their fishery limits for their own citizens.

4th May, 1971.